



Senate

General Assembly

File No. 193

January Session, 2021

Substitute Senate Bill No. 975

Senate, March 29, 2021

The Committee on Aging reported through SEN. MILLER of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT STRENGTHENING THE BILL OF RIGHTS FOR LONG-TERM CARE FACILITY RESIDENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 19a-550 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July 1,*
3 *2021*):

4 (b) There is established a patients' bill of rights for any person
5 admitted as a patient to any nursing home facility, residential care home
6 or chronic disease hospital. The patients' bill of rights shall be
7 implemented in accordance with the provisions of Sections 1919(b),
8 1919(c), 1919(c)(2), 1919(c)(2)(D) and 1919(c)(2)(E) of the Social Security
9 Act. The patients' bill of rights shall provide that each such patient: (1)
10 Is entitled to treat his or her living quarters as his or her home and,
11 subject to rules designed to protect the privacy, health and safety of
12 other patients at a nursing home facility, residential care home or
13 chronic disease hospital, has no fewer rights than any other resident of
14 the state, including, but not limited to (A) associating and

15 communicating privately with persons of the patient's choice, and (B)
16 purchasing and using technology of the patient's choice, including, but
17 not limited to, technology that may facilitate virtual visitation with
18 family and other persons, provided operation and use of such
19 technology shall not violate any individual's right to privacy under state
20 or federal law; (2) is fully informed, as evidenced by the patient's written
21 acknowledgment, prior to or at the time of admission and during the
22 patient's stay, of the rights set forth in this section and of all rules and
23 regulations governing patient conduct and responsibilities; [(2)] (3) is
24 fully informed, prior to or at the time of admission and during the
25 patient's stay, of services available in such facility or chronic disease
26 hospital, and of related charges including any charges for services not
27 covered under Titles XVIII or XIX of the Social Security Act, or not
28 covered by basic per diem rate; [(3)] (4) in such facility or hospital is
29 entitled to choose the patient's own physician or advanced practice
30 registered nurse and is fully informed, by a physician or an advanced
31 practice registered nurse, of the patient's medical condition unless
32 medically contraindicated, as documented by the physician or
33 advanced practice registered nurse in the patient's medical record, and
34 is afforded the opportunity to participate in the planning of the patient's
35 medical treatment and to refuse to participate in experimental research;
36 [(4)] (5) in a residential care home or a chronic disease hospital is
37 transferred from one room to another within such home or chronic
38 disease hospital only for medical reasons, or for the patient's welfare or
39 that of other patients, as documented in the patient's medical record and
40 such record shall include documentation of action taken to minimize
41 any disruptive effects of such transfer, except a patient who is a
42 Medicaid recipient may be transferred from a private room to a
43 nonprivate room, provided no patient may be involuntarily transferred
44 from one room to another within such home or chronic disease hospital
45 if (A) it is medically established that the move will subject the patient to
46 a reasonable likelihood of serious physical injury or harm, or (B) the
47 patient has a prior established medical history of psychiatric problems
48 and there is psychiatric testimony that as a consequence of the proposed
49 move there will be exacerbation of the psychiatric problem that would

50 last over a significant period of time and require psychiatric
51 intervention; and in the case of an involuntary transfer from one room
52 to another within such home or chronic disease hospital, the patient and,
53 if known, the patient's legally liable relative, guardian or conservator or
54 a person designated by the patient in accordance with section 1-56r, is
55 given not less than thirty days' and not more than sixty days' written
56 notice to ensure orderly transfer from one room to another within such
57 home or chronic disease hospital, except where the health, safety or
58 welfare of other patients is endangered or where immediate transfer
59 from one room to another within such home or chronic disease hospital
60 is necessitated by urgent medical need of the patient or where a patient
61 has resided in such home or chronic disease hospital for less than thirty
62 days, in which case notice shall be given as many days before the
63 transfer as practicable; [(5)] (6) is encouraged and assisted, throughout
64 the patient's period of stay, to exercise the patient's rights as a patient
65 and as a citizen, and to this end, has the right to (A) be fully informed
66 about patients' rights by state or federally funded patient advocacy
67 programs, [and may voice grievances and recommend changes in
68 policies and services to nursing home facility, residential care home or
69 chronic disease hospital staff or to outside representatives of the
70 patient's choice, free from restraint, interference, coercion,
71 discrimination or reprisal; (6)] (B) present grievances and recommend
72 changes in policies, procedures and services to the manager or staff of
73 the nursing home facility, residential care home or chronic disease
74 hospital, government officials or any other person without restraint,
75 interference, coercion, discrimination or reprisal from the nursing home
76 facility, residential care home or chronic disease hospital, and (C) access
77 to representatives of the Department of Public Health, the Department
78 of Social Services or the Office of the Long-Term Care Ombudsman; (7)
79 shall have prompt efforts made by such nursing home facility,
80 residential care home or chronic disease hospital to resolve grievances
81 the patient may have, including those with respect to the behavior of
82 other patients; [(7)] (8) may manage the patient's personal financial
83 affairs, and is given a quarterly accounting of financial transactions
84 made on the patient's behalf; [(8)] (9) is free from mental and physical

85 abuse, corporal punishment, involuntary seclusion and any physical or
86 chemical restraints imposed for purposes of discipline or convenience
87 and not required to treat the patient's medical symptoms. Physical or
88 chemical restraints may be imposed only to ensure the physical safety
89 of the patient or other patients and only upon the written order of a
90 physician or an advanced practice registered nurse that specifies the
91 type of restraint and the duration and circumstances under which the
92 restraints are to be used, except in emergencies until a specific order can
93 be obtained; [(9)] (10) is assured confidential treatment of the patient's
94 personal and medical records, and may approve or refuse their release
95 to any individual outside the facility, except in case of the patient's
96 transfer to another health care institution or as required by law or third-
97 party payment contract; [(10)] (11) receives quality care and services
98 with reasonable accommodation of individual needs and preferences,
99 except where the health or safety of the individual would be
100 endangered, and is treated with consideration, respect, and full
101 recognition of the patient's dignity and individuality, including privacy
102 in treatment and in care for the patient's personal needs; [(11)] (12) is not
103 required to perform services for the nursing home facility, residential
104 care home or chronic disease hospital that are not included for
105 therapeutic purposes in the patient's plan of care; [(12)] may associate
106 and communicate privately with persons of the patient's choice,
107 including other patients,] (13) (A) may send and receive the patient's
108 personal mail unopened and make and receive telephone calls privately,
109 unless medically contraindicated, as documented by the patient's
110 physician or advanced practice registered nurse in the patient's medical
111 record, and (B) receives adequate notice before the patient's room or
112 roommate in such facility, home or chronic disease hospital is changed;
113 [(13)] (14) is entitled to organize and participate in patient groups in
114 such facility, home or chronic disease hospital and to participate in
115 social, religious and community activities that do not interfere with the
116 rights of other patients, unless medically contraindicated, as
117 documented by the patient's physician or advanced practice registered
118 nurse in the patient's medical records; [(14)] (15) may retain and use the
119 patient's personal clothing and possessions unless to do so would

120 infringe upon rights of other patients or unless medically
121 contraindicated, as documented by the patient's physician or advanced
122 practice registered nurse in the patient's medical record; [(15)] (16) is
123 assured privacy for visits by the patient's spouse or a person designated
124 by the patient in accordance with section 1-56r and, if the patient is
125 married and both the patient and the patient's spouse are inpatients in
126 the facility, they are permitted to share a room, unless medically
127 contraindicated, as documented by the attending physician or advanced
128 practice registered nurse in the medical record; [(16)] (17) is fully
129 informed of the availability of and may examine all current state, local
130 and federal inspection reports and plans of correction; [(17)] (18) may
131 organize, maintain and participate in a patient-run resident council, as
132 a means of fostering communication among residents and between
133 residents and staff, encouraging resident independence and addressing
134 the basic rights of nursing home facility, residential care home and
135 chronic disease hospital patients and residents, free from administrative
136 interference or reprisal; [(18)] (19) is entitled to the opinion of two
137 physicians concerning the need for surgery, except in an emergency
138 situation, prior to such surgery being performed; [(19)] (20) is entitled to
139 have the patient's family or a person designated by the patient in
140 accordance with section 1-56r meet in such facility, residential care
141 home or chronic disease hospital with the families of other patients in
142 the facility to the extent such facility, residential care home or chronic
143 disease hospital has existing meeting space available that meets
144 applicable building and fire codes; [(20)] (21) is entitled to file a
145 complaint with the Department of Social Services and the Department
146 of Public Health regarding patient abuse, neglect or misappropriation
147 of patient property; [(21)] (22) is entitled to have psychopharmacologic
148 drugs administered only on orders of a physician or an advanced
149 practice registered nurse and only as part of a written plan of care
150 developed in accordance with Section 1919(b)(2) of the Social Security
151 Act and designed to eliminate or modify the symptoms for which the
152 drugs are prescribed and only if, at least annually, an independent
153 external consultant reviews the appropriateness of the drug plan; [(22)]
154 (23) is entitled to be transferred or discharged from the facility only

155 pursuant to section 19a-535, 19a-535a or 19a-535b, as applicable; [(23)]
156 (24) is entitled to be treated equally with other patients with regard to
157 transfer, discharge and the provision of all services regardless of the
158 source of payment; [(24)] (25) shall not be required to waive any rights
159 to benefits under Medicare or Medicaid or to give oral or written
160 assurance that the patient is not eligible for, or will not apply for benefits
161 under Medicare or Medicaid; [(25)] (26) is entitled to be provided
162 information by the nursing home facility or chronic disease hospital as
163 to how to apply for Medicare or Medicaid benefits and how to receive
164 refunds for previous payments covered by such benefits; [(26)] (27) is
165 entitled to receive a copy of any Medicare or Medicaid application
166 completed by a nursing home facility, residential care home or chronic
167 disease hospital on behalf of the patient or to designate that a family
168 member, or other representative of the patient, receive a copy of any
169 such application; [(27)] (28) on or after October 1, 1990, shall not be
170 required to give a third-party guarantee of payment to the facility as a
171 condition of admission to, or continued stay in, such facility; [(28)] (29)
172 is entitled to have such facility not charge, solicit, accept or receive any
173 gift, money, donation, third-party guarantee or other consideration as a
174 precondition of admission or expediting the admission of the individual
175 to such facility or as a requirement for the individual's continued stay in
176 such facility; and [(29)] (30) shall not be required to deposit the patient's
177 personal funds in such facility, home or chronic disease hospital.

178 Sec. 2. Subsection (a) of section 19a-697 of the general statutes is
179 repealed and the following is substituted in lieu thereof (*Effective July 1,*
180 *2021*):

181 (a) A managed residential community shall have a written bill of
182 rights that prescribes the rights afforded to each resident. A designated
183 staff person from the managed residential community shall provide and
184 explain the bill of rights to the resident at the time that such resident
185 enters into a residency agreement at the managed residential
186 community. The bill of rights shall include, but not be limited to, that
187 each resident has the right to:

- 188 (1) Live in a clean, safe and habitable private residential unit;
- 189 (2) Be treated with consideration, respect and due recognition of
190 personal dignity, individuality and the need for privacy;
- 191 (3) Privacy within a private residential unit, subject to rules of the
192 managed residential community reasonably designed to promote the
193 health, safety and welfare of the resident;
- 194 (4) Retain and use one's own personal property within a private
195 residential unit so as to maintain individuality and personal dignity
196 provided the use of personal property does not infringe on the rights of
197 other residents or threaten the health, safety and welfare of other
198 residents;
- 199 (5) [Private] Treat his or her residential unit as his or her home and
200 has no fewer rights than any other resident of the state, including, but
201 not limited to, (A) associating and communicating privately with
202 persons of the resident's choice, (B) purchasing and using technology of
203 the resident's choice, including, but not limited to, technology that may
204 facilitate virtual visitation with family and other persons, provided
205 operation and use of such technology shall not violate any individual's
206 right to privacy under state or federal law, and (C) engaging in other
207 private communications, including receiving and sending unopened
208 correspondence [,] and telephone access; [and visiting with persons of
209 one's choice;]
- 210 (6) Freedom to participate in and benefit from community services
211 and activities so as to achieve the highest possible level of independence,
212 autonomy and interaction within the community;
- 213 (7) Directly engage or contract with licensed health care professionals
214 and providers of one's choice to obtain necessary health care services in
215 one's private residential unit, or such other space in the managed
216 residential community as may be made available to residents for such
217 purposes;
- 218 (8) Manage one's own financial affairs;

219 (9) Exercise civil and religious liberties;

220 (10) Present grievances and recommend changes in policies,
221 procedures and services to the manager or staff of the managed
222 residential community, government officials or any other person
223 without restraint, interference, coercion, discrimination or reprisal from
224 the managed residential community, including access to representatives
225 of the department or the Office of the Long-Term Care Ombudsman;

226 (11) Upon request, obtain from the managed residential community
227 the name of the service coordinator or any other persons responsible for
228 resident care or the coordination of resident care;

229 (12) Confidential treatment of all records and communications to the
230 extent required by state and federal law;

231 (13) Have all reasonable requests responded to promptly and
232 adequately within the capacity of the managed residential community
233 and with due consideration given to the rights of other residents;

234 (14) Be fully advised of the relationship that the managed residential
235 community has with any assisted living services agency, health care
236 facility or educational institution to the extent that such relationship
237 relates to resident medical care or treatment and to receive an
238 explanation about the relationship;

239 (15) Receive a copy of any rules or regulations of the managed
240 residential community;

241 (16) Privacy when receiving medical treatment or other services
242 within the capacity of the managed residential community;

243 (17) Refuse care and treatment and participate in the planning for the
244 care and services the resident needs or receives, provided the refusal of
245 care and treatment may preclude the resident from being able to
246 continue to reside in the managed residential community; and

247 (18) All rights and privileges afforded to tenants under title 47a.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2021	19a-550(b)
Sec. 2	July 1, 2021	19a-697(a)

Statement of Legislative Commissioners:

In Section 2(a)(5), "engaging in" was added for clarity and proper sentence structure.

AGE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill, which expands nursing home patients' bill of rights to include access to representatives of the Departments of Public Health and Social Services, and the Office of the Long-Term Care Ombudsman, is not anticipated to result in a fiscal impact to the state or municipalities.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sSB 975*****AN ACT STRENGTHENING THE BILL OF RIGHTS FOR LONG-TERM CARE FACILITY RESIDENTS.*****SUMMARY**

This bill adds to the nursing home patients' bill of rights (see BACKGROUND), which applies to patients in nursing homes, residential care homes, and chronic disease hospitals. For these patients, the bill adds the right to treat their living quarters as their own home. It also specifies that they have no fewer rights than other state residents, subject to rules designed to protect other patients' privacy, health, and safety at the facility. Under the bill, this includes the right to:

1. associate and communicate privately with people the patient chooses and
2. purchase and use technology the patient chooses, including technology that facilitates virtual visitation with family and others, provided the technology's use and operation does not violate any individual's right to privacy under state or federal law.

The bill also extends these rights to residents of managed residential communities (e.g., assisted living facilities) under their bill of rights, which is generally similar to the nursing home patients' bill of rights.

Under current law, the nursing home patients' bill of rights grants patients the right to be encouraged and assisted in exercising their rights as a patient and citizen, including:

1. being fully informed about their rights by state and federal advocacy programs and

2. voicing grievances and recommending changes to facility staff or outside representatives without restraint, discrimination, coercion, or reprisal.

The bill expands this right to also include the right to access representatives of the Public Health and Social Services departments and the Office of the Long-Term Care Ombudsman.

EFFECTIVE DATE: July 1, 2021

BACKGROUND

Patients' Bill of Rights

Existing law establishes a patients' bill of rights for nursing home, residential care home, and chronic disease hospital patients. It contains a broad and detailed set of rights an individual must be fully informed of before or upon admission to the facility and during the patient's stay. Among other things, patients have the right to (1) be free from abuse and neglect, (2) participate in the planning of their care, (3) manage their own financial affairs, and (4) have their grievances resolved promptly (CGS § 19a-550). Federal nursing home law contains provisions generally similar to state law concerning these rights (42 U.S.C. § 1395i-3(c) and 42 C.F.R. § 483.10).

COMMITTEE ACTION

Aging Committee

Joint Favorable Substitute

Yea 16 Nay 0 (03/11/2021)